

DIRECTOR'S ORDER #77-1: WETLAND PROTECTION

Approved: /s/ Robert Stanton
Director, National Park Service

Effective Date: October 22, 1998

Sunset Date: October 22, 2002

The wetland protection provisions of the 1980 "NPS Floodplain Management and Wetland Protection Guidelines" (45 Fed. Reg. 35916, minor revisions in 47 Fed. Reg. 36718), and any other conflicting instructions or delegations of authority, are superseded and replaced by this Director's Order and by Procedural Manual #77-1, issued by the Associate Director, Natural Resource Stewardship and Science.

1.0 Background and Purpose of this Director's Order

The purpose of this Director's Order is to establish National Park Service (NPS) policies, requirements, and standards for implementing Executive Order (E.O.) 11990: "Protection of Wetlands" (42 Fed. Reg. 26961). E.O. 11990 was issued by the President "...to avoid to the extent possible the long and short term adverse impacts associated with the destruction or modification of wetlands and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative...."

In addition to E.O. 11990, two other wetland-related initiatives are recognized and incorporated into this Director's Order:

- a. On August 24, 1993, the White House Office on Environmental Policy issued a paper titled "Protecting America's Wetlands: A Fair, Flexible, and Effective Approach." In its "Five Principles for Federal Wetlands Policy," the paper outlined the Administration's support of an interim goal of no overall net loss of the nation's remaining wetlands, and a long-term goal of increasing the quality and quantity of the nation's wetland resource base.
- b. On December 17, 1996, the Secretary of the Interior formally adopted the U.S. Fish and Wildlife Service wetland classification system "Classification of Wetlands and Deepwater Habitats of the United States" (FWS/OBS-79/31; Cowardin et al. 1979) as a departmental standard for classifying and inventorying wetlands.

Section 6 of E.O. 11990 directs federal agencies to issue procedures to comply with the Executive Order. NPS procedures were originally adopted together with procedures to comply with E.O. 11988 (Floodplain Management) in the 1980 "NPS Floodplain Management and Wetland Protection Guidelines" (45 Fed. Reg. 35916, minor revisions in 47 Fed. Reg. 36718). Experience with implementing the wetland provisions of those guidelines and changes in wetland management

concepts since they were first published have necessitated updating, streamlining, and clarifying NPS wetland policies, requirements, and standards.

2.0 Policies, Requirements, and Standards

Executive Order 11990 directs the NPS: 1) to provide leadership and to take action to minimize the destruction, loss, or degradation of wetlands; 2) to preserve and enhance the natural and beneficial values of wetlands; and 3) to avoid direct or indirect support of new construction in wetlands unless there are no practicable alternatives to such construction and the proposed action includes all practicable measures to minimize harm to wetlands.

In carrying out the NPS's responsibilities related to:

- acquiring, managing, and disposing of NPS lands and facilities;
- construction and related development activities;
- permitting activities as provided for under NPS regulatory authorities; and
- conducting activities, programs, or planning efforts affecting use of NPS lands,

in a manner consistent with E.O. 11990 and with the "no net loss of wetlands" goal, the NPS will take the following actions:

- 2.1 The NPS adopts a goal of "no net loss of wetlands." In addition, the NPS will strive to achieve a longer-term goal of net gain of wetlands Servicewide.
- 2.2 NPS units will conduct parkwide wetland inventories (or will obtain such inventories from appropriate sources such as the National Wetlands Inventory) to help assure proper planning with respect to management and protection of wetland resources. Additional large-scale (more detailed) wetland inventories will be conducted in areas that are proposed for development or are otherwise susceptible to degradation or loss due to human activities.
- 2.3 For purposes of compliance with Executive Order 11990, the NPS will use "Classification of Wetlands and Deepwater Habitats of the United States" (FWS/OBS-79/31; Cowardin et al. 1979) as the standard for defining, classifying, and inventorying wetlands.
- 2.4 For proposed new development or other new activities, plans, or programs that are either located in or otherwise have the potential for direct or indirect adverse impacts on wetlands, the NPS will employ a sequence of:
 - a) avoiding adverse wetland impacts to the extent practicable,
 - b) minimizing impacts that could not be avoided, and
 - c) compensating for remaining unavoidable adverse wetland impacts via restoration of degraded wetlands.

Consistent with 2.1 above, compensation for wetland degradation or loss will be at a minimum 1:1 ratio. Actions that may be excepted from the compensation requirement will be identified under procedures developed by the Associate Director, Natural Resource Stewardship and Science to implement this Director's Order.

- 2.5 Actions proposed by the NPS that have the potential to have adverse impacts on wetlands will be addressed in an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). If the preferred alternative in an EA or EIS will result in adverse impacts on wetlands, a "Statement of Findings" documenting compliance with this Director's Order and its implementation procedures will be completed. Actions that may be excepted from the Statement of Findings requirement will be identified in those procedures.
- 2.6 Superintendents will oversee preparation of Statements of Findings and will recommend their approval to Regional Directors. The Chief of the NPS Water Resources Division or, alternatively, a certified Professional Wetland Scientist (Society of Wetland Scientists Certification Program, Inc.) from within the NPS with working knowledge of this Director's Order and its implementation procedures, will certify: 1) the adequacy of wetland-related technical analyses; and 2) consistency with Servicewide implementation of this Director's Order and accompanying procedures. Regional Directors have final approval authority for Statements of Findings.
- 2.7 Where natural wetland characteristics or functions have been degraded or lost due to previous or ongoing human activities, the NPS will, to the extent appropriate and practicable, restore them to pre-disturbance conditions.
- 2.8 Where appropriate and practicable, the NPS will not simply protect, but will seek to enhance natural wetland values by using them for educational, recreational, scientific, and similar purposes that do not disrupt natural wetland functions.
- 2.9 The Associate Director, Natural Resource Stewardship and Science, will develop and issue procedures for implementing the policies, standards, and requirements of this Director's Order.

3.0 Responsibilities

The Director is responsible for ensuring NPS compliance with E.O. 11990 in accordance with provisions of 520 DM 1. In performing this duty, the Director approves NPS policies and directives for complying with the Executive Order.

The Deputy Directors and Associate Directors are responsible for general supervision of the Divisions and Offices under their jurisdictions to ensure compliance with E.O. 11990 as outlined in this Director's Order and its implementation procedures.

The Associate Director, Natural Resource Stewardship and Science is responsible for: 1)

issuing NPS procedures for implementing this Director's Order; and 2) revising relevant portions of the NPS *Management Policies* (1988) and NPS natural resources management and NEPA procedures to ensure compliance with E.O. 11990 as outlined in this Director's Order and its implementation procedures.

The Associate Director, Professional Services is responsible for revising NPS planning procedures as necessary to satisfy the requirements of E.O. 11990 as outlined in this Director's Order and its implementation procedures.

The Superintendents oversee the planning/NEPA process, identify preferred alternatives, and oversee preparation of Statements of Findings as outlined in this Director's Order and its implementation procedures, utilizing the wetland technical information developed during the planning process. Superintendents sign the "Recommended" line on Statement of Findings cover sheets.

The Chief, Water Resources Division (or a certified Professional Wetland Scientist from within the NPS as described in this Director's Order and its implementation procedures) signs the "Certification of Technical Adequacy and Servicewide Consistency" line on Statement of Findings cover sheets, assuring both technical adequacy of wetland analyses and Servicewide consistency in implementation of this Director's Order and its implementation procedures.

The Regional Directors are responsible for ensuring compliance with E.O. 11990 within their respective Regions as outlined in this Director's Order and its implementation procedures. They are responsible for final approval of Statements of Findings after recommendation by Superintendents and certification of technical adequacy and Servicewide consistency as described in Section 2.6.